



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9615-7]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA)

ACTION: Supplemental Notice of Proposed Consent Decree; Request for Public Comment

SUMMARY: On December 2, 2011, EPA provided notice in accordance with section 113(g) of the Clean Air Act, as amended (“CAA” or the “Act”), 42 U.S.C. 7413(g), of a proposed consent decree to address a lawsuit filed by National Parks Conservation Association, Montana Environmental Information Center, Grand Canyon Trust, San Juan Citizens Alliance, Our Children's Earth Foundation, Plains Justice, Powder River Basin Resource Council, Sierra Club, and Environmental Defense Fund (collectively “Plaintiffs”) in the United States District Court for the District of Columbia: National Parks Conservation Association, et al. v. Jackson, No. 1:11-cv-1548 (D. D.C.). The proposed consent decree establishes proposed and final promulgation deadlines for EPA to promulgate regional haze federal implementation plans (FIPs) or approve regional haze state implementation plans (SIPs) for 34 states, as required by section 110(c) of the CAA. In EPA’s notice, we inadvertently failed to identify Arizona, Michigan, and New Mexico as states addressed by the proposed consent decree. Notice is hereby given that the proposed consent decree addresses these three states. We are extending the comment period to provide an opportunity to comment on the proposed consent decree as it affects these three states only.

DATES: Written comments on the proposed consent decree as it affects Arizona, Michigan, and New Mexico must be received by [insert date 30 days after publication date].

ADDRESSES: Submit your comments, identified by Docket ID number EPA-HQ-OGC-2011-0929, online at www.regulations.gov (EPA's preferred method); by e-mail to oei.docket@epa.gov; by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Lea Anderson, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone: (202) 564-5571; fax number (202) 564-5603; email address: anderson.lea@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Additional information about the proposed consent decree.

Under section 110(c) of the CAA, EPA has a mandatory duty to promulgate a federal implementation plan ("FIP") within two years of a finding that a state has failed to make a required state implementation plan ("SIP") submittal. EPA is not required to promulgate a FIP, however, if the state submits the required SIP and EPA approves the plan within the two years of EPA's finding. On January 15, 2009, EPA found that 37 states, the District of Columbia, and the U.S. Virgin Islands had failed to submit CAA SIPs for improving visibility in mandatory Federal Class I areas.

The proposed consent decree would resolve a deadline suit filed by Plaintiffs for EPA to

take action on a number of regional haze SIPs. The proposed consent decree would address, *inter alia*, EPA's failure to promulgate regional haze FIPs or approve regional haze SIPs for 34 of the states that the Agency found on January 15, 2009 had failed to submit SIPs addressing the requirements of the regional haze program. EPA's prior notice inadvertently excluded Arizona, Michigan, and New Mexico from the list of the 34 states addressed by the consent decree. In addition, EPA erroneously identified California, Montana, and North Dakota as states addressed by the proposed consent decree. These states are not addressed by the proposed consent decree.

For a period of thirty (30) days following the date of publication of this supplemental notice, the Agency will accept written comments relating to the provisions in the proposed consent decree addressing Arizona, Michigan, and New Mexico from persons who were not named as parties or intervenors to the litigation in question. Other written comments on the proposed consent decree must be received by January 3, 2012. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this consent decree should be withdrawn, the terms of the proposed consent decree will be affirmed.

Additional information about commenting on the proposed consent decree can be found in the notice published on December 2, 2011.

Dated: December 23, 2011.

Kevin McLean
Acting Associate General Counsel